

HUKOU, LAND TENURE RIGHTS, AND CHINESE RURAL WOMEN

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Land is a powerful asset, and it has a social function as its economic and social aspects are central in advancing gender equality. Legal control of land as well as the legal and social recognition of women's uses of and rights to land, can provide catalytic effects of empowerment, increasing women's influence and status in their homes and communities. The main aim of this article is to investigate and analyze the difficulties rural women face in land tenure rights when changing their *hukou*, which is the household registration system. During past decades, changes in the practices of the Chinese *hukou* legislation and land tenure rights have brought important incentives for rural developments, including farmer income and living standards. Even though both men and women face difficulties in rural areas due to the *hukou* system and its clashes with land rights, women are more vulnerable and more at risk of facing poverty and abuse. Women remain more likely to become landless after changing their *hukou*. The lack of recognition for women's land-use rights deprives them of their chances of surviving in rural China. They become legal ghosts.

Keywords: land rights, rural women, China, *hukou*, household registration system, women's rights

1. Introduction

Land is a powerful asset, but it also has a social function because its economic and social aspects are central in advancing or suppressing gender equality (Agarwal 1994). More specifically, the legal control of land as well as the social recognition of women's use of and rights to land can have catalytic effects of empowerment, increasing women's influence and status in their homes and communities (Araujo 2017; UN 1995). As land is the only lifeline that forms the basis of social security and economy for rural Chinese people, and especially women, land tenure rights

ought to be protected and respected. However, in China, this is not always the case. One major influence is the *hukou*, which is the household registration system.¹

Both the *hukou* and the more ambiguous land tenure rights that regulate the allocation of rural land are supposedly gender-neutral, bestowing women with the same opportunities as men. However, the law on the books differs from the law in action. The ambiguity of land-use legislation and the dogmatic implementation of *hukou* legislation deprives women of their chances at survival in rural China and these women may become legal ghosts who are ignored and forgotten.

Chinese *hukou*, derived from the Soviet *propiska*, and internal passport in the 1950s, controls the population in an efficient way. The control and regulation of the internal movement of Chinese citizens is far more elaborate than in almost any other country in the world (Chan 2009, 199). The *Hukou* is supervised by the Ministry and Agency of Public Security (NPC 1958, § 3). The fact that those responsible for public security are responsible for *hukou* matters reveals how important the *hukou* system is to China. *Hukou* legislation is also the only national legislation on migration and residence approved by the National People's Congress.

Although Chinese rural farmers' land tenure rights have been strengthened since the introduction of the *hukou* system, some key issues remain. For example, as peasants are turned into a "mobile population,"² their land could be taken away³ to feed industrialization's insatiable demand for land, urban construction, and local state revenue (Chan 2019, 17). Or, as revealed by previous literature, interviews, and arbitration cases, when a woman permanently moves her *hukou* location to another village, she is denied her legal right to a piece of land even though the original village had already taken away her land tenure rights (Li and Xi 2006, 628–630; Huang et al. 2017, 213–222).

A woman had four *mu* of land in her original village. She married and moved into her husband's village as is the custom. The original village took away her land and the new village refused to give her land. After arbitration, she was allowed to keep her land in the old village and the old village was ordered to pay compensation. (from the author's interview with members of the All China Women's Federation)

However, this kind of policy allows China's economic machinery to run smoothly, and so is tolerated by the authorities (Song 2014, 200–212).

¹ The other being the rural land tenure system itself and its ambiguities. This is being researched in another article that is part of a Ph.D. project studying the position of rural women in Chinese society.

² A "mobile" or "floating" population refers to work-related migration (Luo et al. 2018, 219–228).

³ Since they are no longer actively tending their piece of land, it can be expropriated from them.

This chapter seeks to ascertain how the Chinese *hukou* system affects rural women's land rights tenure practices. To assess the impact of *hukou* on land tenure practices, it is necessary to understand *hukou*'s significance to Chinese society, which in turn is based on how the development of *hukou* is intertwined with Chinese history. The *hukou* system has made both positive and negative contributions to contemporary Chinese society; it has helped foster rapid economic growth and political stability, but has also reinforced social stratification, the rural/urban divide, regional inequalities, as well as discrimination and injustice (Wang 2005).

As mentioned, the *hukou* system and all related practices are administered by public security bodies at all levels, and the system is shrouded in a dense and secretive network. However, I managed to collect sufficient data, including interviews for this chapter. In addition, interviews, scientific articles, and publications have shed light on the true nature of the *hukou* and land tenure rights. Since (rural women's) land rights are considered to be a "sensitive issue," data gathering has been challenging, to say the least.

As this chapter focuses on women in rural areas, a feminist standpoint (Hartsock 1983, 283–310) provides a thought-provoking framework, complemented with an intersectional analysis. Women's land rights and *hukou* are connected to their location, particularly on the rural/semi-urban/urban axis. In addition, age, and marital status are defining aspects of their *hukou*-status and effects of *hukou* on their situation.

Of course, it is important to remember that land rights and *hukou* issues are not the only challenges women face in China.⁴ Women encounter systemic gender discrimination in education (Ross 2015, 25–54) and employment (Dasgupta, Matsumoto, and Xia 2015; ILO working paper), as well as all kinds of harassment (Srivastava and Gu 2009; ILO working paper). Additionally, news articles expose a certain hostility from authorities which has extended to women's rights activists over the last few years.⁵

This paper is organized as follows. Chapter 2 begins by laying out the theoretical and methodological dimensions of the research. It presents the interviews carried out in Chinese semi-urban areas forming the original data for this chapter. After that, Chapter 3 addresses the history and development of *hukou* and its effects on Chinese society. Next, Chapter 4 introduces the rural land tenure system. Chapter 5 addresses the interplay of *hukou* legislation and the regulation and

⁴ When lecturing at Fudan University, I was told of a professor (not Fudan-based) who categorically refuses to take female students as master/postgraduate students because women "get pregnant and stay at home."

⁵ In January 2016, Guo Jianmei, founder of the Beijing Zhongze Women's Legal Counseling and Service Center closed the organization. It has been argued that the authorities ordered the closure (Zeng 2014a, 136–150).

practice of land tenure rights and their effects on rural women. Finally, the last chapter provides a summary and discussion.

2. Theory, data, and method

China is, at least in theory, still a socialist country. However, since 1978, the Chinese Communist Party (CCP) has slowly introduced a capitalist economy to Chinese society (Ai 2009, 689–701). Marxism no longer has a strong foothold. In Daniel Bell's words (2010, 8):

Hardly anybody really believes that Marxism should provide guidelines for thinking about China's political future. The ideology has been so discredited by its misuses that it has lost almost all legitimacy in society.

Although the power of the CCP is still strong, the norms that govern society at the grassroots level are anchored deeper than in the structures of state and administrative power. Even though the CCP has a significant hierarchical power structure, power does not entirely lie in the hands of one person, or even the CCP. The CCP and structures such as village committees, other authorities, and courts are aware of and operate within known power structures (Wang 2010, 181–210). Everyone (e.g., those who exercise power and the objects of the exercise of power) is stuck within different kinds of structures. However, they know how to operate within these structures. In other words, it is not enough to analyze the hierarchical concept of power but also the exercise of power at the grassroots level (Foucault 1977, 17–49).

A feminist standpoint (Hartsock 1983, 283–310; Harding 1987, 193) explains the Foucauldian (Foucault 1977, 17–49) power structure in a way that places women in the center. Hartsock is aware that power is an essentially contested concept and that different epistemologies are based on different theories of power (Hartsock 2013). Hartsock also claims that women's unique standpoint in society provides the justification for the truth claims of feminism while also providing a method to analyze reality (Hartsock 1983, 283–310; Harding 1987, 193). Accordingly, it is easy for those at the top of social hierarchies to lose sight of real human relations and the true nature of social reality. Yingru Li and Dennis Wei (2010, 303–316) have noticed that in China, the social realities of different groups, authorities, and rural women are so far apart that there is no real connection or understanding between them.

In addition, it is vital to understand that women are not a coherent group of people. Previously women's and gender studies considered women as a standardized group with common interests, desires, and problems regardless of class or ethnic connection (Mohanty 1988, 61–88; Nicholson and Seidman 1995, 39–102). Yet, women's lives in any given society are shaped not by a single axis of

social division – e.g., gender – but by many intersecting axes that work together and influence each other (Hill Collins and Bilge 2020, 3–30). Therefore, it is important to acknowledge that rural women form a group of their own with their own distinct and intersecting social justice issues. In this chapter, age, marital status, location, and gender play an important role in the situation surrounding women's equality. These intersecting social justice problems are subclasses to topics such as gender inequality, gendered societies, or gendered decision-making structures.

Several researchers⁶ have utilized government documents and other official documents to analyze Chinese policies. Likewise, this chapter utilizes Chinese policy documents in addition to observations and interactions with Chinese scholars and students during my research visits, guest lectures, and seminars in China. Since the research interest focuses on grass-roots interaction, the specific and original data comprise interviews with the All China Women's Federation (ACWF) personnel and one expert. As this is a qualitative study, the idea was to produce contextual real-world knowledge about social structures and the political atmosphere in which the ACWF is currently operating by using semi-structured interviews. Even though these interviews usually produce results that cannot be generalized beyond the sample group, they provide a more in-depth understanding of participants' perceptions, motivations, and emotions.

The main topic of the interviews was rural women's land rights situation in rural areas of China. The interviews also addressed the *hukou* system since it affects daily lives of Chinese citizens in many domains and shapes China's socio-political structure and socioeconomic development. The questions about the *hukou* system were such that after answers it was possible to add a follow-up question according to what was included in the answer. Example questions included:

"What do you think is currently the most problematic issue in the *hukou* system?"

"The *hukou* system is facing some reforms, what do you think of them?"

"Do you think rural people are frustrated because changing *hukou* is so difficult?"

Also, the informants mentioned the insurance system connected to the *hukou* and its problems.

As this chapter tries to establish how the *hukou* and land tenure legislation affect rural women's lives, the answers to these questions were revealing. The answers painted a picture of various policies, practices, and power relations that have a great impact on women's economic and overall independence. Also, dur-

⁶ See for example Gregory Veeck (2011), Benxiang Zeng (2014b), Jude Howell (2006), and Guo and Yang (2016).

ing interviews, it was important to pay attention to what was not mentioned, the small silences. Nevertheless, the interviewees were very responsive and willing to answer the questions. At some point, the interviewees negotiated among themselves about what kind of concrete examples they were able to provide. After their discussion, they gave a few examples of cases they had arbitrated. One case in particular was quite important for this chapter. That case revealed how compulsory legislation and its ambiguous nature can cause problems in land tenure after moving one's *hukou* location.

The interviews were conducted in city A in Central China in April 2017 and in city B in Eastern China in April 2018. There were three and four participants, respectively, from the ACWF but the reference is to the group. Additionally, an interview with a professor of human rights law provides insight into women's legal status, and equality. The ACWF was chosen because it is basically the only national women's organization in China. The interviews were not recorded, but transcripts were taken.

Arranging formal interviews was relatively easy after I found and got in touch with the right person. ACWF's Shanghai and Beijing offices were very helpful in finding the right person, contacting them, and explaining my intentions. However, both offices were a little concerned, as women's land rights are considered a sensitive issue in China. While this issue can be discussed in China, it must be done in a certain tone that is not too critical of the government or the Communist Party. One of the conditions of the interviews was that the interviewees spoke with one voice. The second condition was that the interviews should not be recorded.

The beginning of the first interview in City A was quite awkward and confusing. The interviewees were very nervous and constantly said they were not sure if they had anything new to tell me or if they would even be allowed to talk to me even though the Beijing headquarters had accepted the interview. At that point, my research assistant, a 19-year-old young man, and I began to be as anxious as the interviewees. To alleviate the situation, I began to explain that my research assistant had just enrolled as a student and that he was going to perform his compulsory military service in the Armoured Brigade. The atmosphere changed immediately. The interviewees started a lively discussion with the assistant about Finnish youth culture, how he feels about the army and what he wants to do after his military service. Their small discussion session lasted about half an hour and after that I was able to start the interview and the atmosphere remained relatively free and friendly.

The second interview in City B was easy because the interviewees had heard of my assistant. My assistants and interviewees again discussed Finnish youth, school, and military service. The theme of this interview was quite sensitive (the position of women and women's organizations in China), and I was very surprised that the

interviewees were very open in their opinions about the current situation. ACWF interviews revealed how concerned they are about the current situation and wanted someone to listen to their concerns in order to make their fears heard and visible.

Both an inductive approach and a deductive approach were used. Primarily the inductive approach allowed the determination of the main themes. Of course, there were some preconceived themes that were expected to be found based on existing knowledge. The themes that emerged from the interviews were gender inequality, the ostensible neutrality of legislation, and gendered decision-making structures at the local level. These themes seem primarily to affect the work of the ACWF. Secondly, the themes and their consequences also have effects on women as the ACWF is not able to provide adequate support and/or guidance concerning land tenure rights.

3. What is the *hukou*?

3.1 A short history

All through the 1950s, China implemented a code of laws, regulations, and programs, the effect of which was to formally differentiate residential groups to control population movement and mobility and to shape state developmental priorities. The *hukou* system, which emerged over the course of a decade, was integral to the collective transformation of the countryside for a demographic strategy that restricted urbanization, and to redefine city-countryside and state-society relations (Cheng and Selden 1994, 644–668).

During the 1950s, three important measures tightened administrative control over population flow within and between urban and rural areas: “Regulations for Public Security Substations,” “Organic Regulations of Urban Street Offices,” and “The Directive Concerning Establishment of a Permanent System of Household Registration.” These three measures paved the way for the promulgation of Regulations on Household Registration in the People’s Republic of China, which happened on the eve of the Great Leap Forward in 1958.

Originally intended only as a tool for controlling internal migration, the *hukou* system soon transformed into a social institution that divided Chinese society into regional hierarchies. The Chinese *hukou* system differs significantly from household registration systems used by other countries, such as Taiwan and Japan, which do not restrict the right of citizens to choose their own place of residence (Chan and Buckingham 2008, 582–606). Soon after the promulgation, the *hukou* system began to divide citizens into two categories, or statuses: agriculture and non-agriculture. In addition, a person’s location was registered. Martin King Whyte’s (2010, 125–146) and Xiaogang Wu’s research team (Wu and Treiman 2004,

363–384) discovered that the purposes of the dichotomy caused by the *hukou* are diverse and the Chinese administration sees the division as necessary for the functioning of the state, as the system is able to effectively control citizens. According to them, the *hukou* system is a very efficient (political) tool, that allows the authorities to not just monitor but exclude people outside of society. In addition, Fei-Ling Wang (2005, 86–112) argues that the division and control of people into different categories adversely affects the realization of the fundamental rights, livelihoods, and ordinary lives of hundreds of millions of people. As the interviews revealed, the *hukou* system is quite dogmatic and inflexible.

Despite sweeping dramatic social and economic changes over the last four decades, the *hukou* system remains an enduring institution. With its service beyond controlling migration, the *hukou* system was a mechanism for reorganizing land. Immobilizing the peasantry enabled the state to arrange extractions and land expropriation from the agriculturalists to support the first and foremost goal of industrialization and economic growth for the greater good of the country (Chan 2019, 59–79). Its continued importance tells us how far, and indeed how little, China has departed from its “socialist” path.

3.2 *Hukou* system in operation

When arriving in a hotel in China, a traveler encounters the *hukou* system at check-in. A hotel porter scans the passport and sends it to a local office of the Internal Security Agency. The visitor is now registered, and their location is stored in the state systems. Registration provides a comprehensive picture of a visitor’s movements throughout China, and they can be monitored, especially if they visit a controversial area.⁷

Elisabeth Perry and Mark Selden (2010, 80–100) have found out that the *hukou* registration not only provides the principal basis for establishing identity, citizenship, and proof of official status, but it is essential for every aspect of daily life. Without registration, one cannot establish eligibility for food, clothing, or shelter, obtain employment, go to school, marry or enlist in the army. Moreover, as Judith Banister (1987, 328) noted of the dichotomic social order produced by the registration system:

Urban areas are essentially owned and administered by the state, and their residents are the state’s direct responsibility. The state budget must supply urban areas with employment, housing, food, water, sewage disposal, transportation, medical facilities, police protection, schools, and other essentials and amenities of life.

⁷ In most countries, hotel guests’ personal information is gathered for cases of emergency, not for internal security reasons or for monitoring peoples’ movements.

The state assumes direct responsibility for none of these services for the countryside. Nor does it provide rural people with any of the other vital services and welfare benefits that it routinely provides to urban residents, particularly to state sector employees, including free or subsidized health care, retirement benefits, and subsidized food and housing. To the extent that any of these services have been available in the countryside, they have relied on the highly differentiated resources allocated by self-reliant rural communities (villages) or their collective sub-units, i.e., production teams (Afridi, Li, and Ren 2015, 17–29).

The interviews confirmed all this. When asked what the biggest problem is now for rural women, the ACWF answered the current insurance situation, and its unequal arrangement existing between rural and urban women. The ACWF points out that the biggest problem that prevents equal insurance system is purely economic:

The change needs money, there is not enough money. Urban people don't want to lose their benefits and there is not enough money to support rural people as well. (interview with the ACWF)

Furthermore, the *hukou* system has a significant impact on China's internal development. Different requirements for *hukou* registration by region⁸ affect the national distribution of labor resources. The availability of public services related to one's *hukou* status, or rather the lack of availability, also increases social inequality. Urban *hukou* registration rules can indirectly affect the development of rural areas, including agricultural production, land use, and rural governance (Zhang, Wang, and Lu 2019, 210–221).

Jason Young (2013, 47–53) points out that China's *hukou* system of population registration has long been, and remains today, the central institutional mechanism defining the city-countryside relationship and shaping important elements of state-society relations in the People's Republic. But even though the central government in Beijing has eased the *hukou* system, there still are restricting elements:

It is not so much about controlling people as it used to be. But it is a very good way to restrict people from moving to new areas. Not everyone can live in cities. (interview with the Professor of human rights)

4. Land rights

Land tenure rights constitute the most significant form of income, economic safety, and social security for the rural population (Li et al. 2015, 635–641; Liang and Burns 2017, 75–88). In other words, a farmer's land not only generates income,

⁸ *Hukou* regulations are regional and differ from area to area.

but also acts as a means of life security. It is easy to agree with Chengri Ding (2007, 2) who argues that despite the benefits of the public land leasing system for local government financing, flaws and ambiguities within the legislation and implementation of land leasing policies have had negative impacts in various sectors of society.

Previously, when socioeconomic development plans called for land development, Chinese municipal governments increased their land supply through land acquisition, a conversion of landownership from the collective to the state. In these land acquisition cases, municipal governments compensated farmers for their land. Since there were no land markets, peasants were instead compensated with a package that included job offers to work for the enterprises established on the acquired land, housing compensation referred to as "resettlement fees," compensation for the loss of crops and belongings connected to the land, and an urban *hukou*. It was common for large projects such as highways, railroads, and water projects to leave farmers with no land to farm (Ding 2004).

The reallocation of land and relocation negatively affected tenure security, farmland investment, and agricultural productivity. In 1984, the state stipulated that land use rights should be leased to villagers for a minimum of 15 years, and this was extended to 30 years in 1993 (NPC 2004, § 14). However, when lands are reallocated land use rights can be taken back from villagers before the end of their lease contract. Technically, the inclusion of "reallocation is prohibited before expiry date" as a clause in land rights certificates should be unnecessary since it restates what the law says. Thus, a land rights certificate should protect the leaseholder during the entirety of the lease term. However, in China, anything not specifically banned may be considered acceptable. If the "reallocation is prohibited before expiry date" clause is not included in land rights certificates, the understanding is that reallocation may be permissible (Feng, Bao, and Jiang 2014, 255). It captures the importance of the formality of land rights certificates and measures the impact of the functionality of these certificates.

There are grey areas where basic land rights certificates do not offer *enough* land-use rights protection. Pieces of land can be taken back if certain conditions are met; for example, reallocation is allowed if approved by more than two-thirds of the members of the collectives. However, the "reallocation is prohibited before expiry date" clause provides an extra layer of protection if included in land rights certificates. In other words, the issuing of land rights certificates offers basic land tenure protection if the above-mentioned clause is present.

Perhaps the reforms that were most important to land development were the Constitutional Amendment and the development of Land Administration Law (LAL) in 1988. First passed in 1986 and amended in 1998, the LAL guides compensation for compulsory land acquisition (NPC 2004, § 47). In 1986, the LAL followed

the old model of land acquisition compensation, containing four main components: land compensation, resettlement subsidies, compensation for young crops and attachments on the land, and labor resettlement. Despite the positive impacts of land acquisition and public land leasing on local government financing, an examination of land acquisition reveals institutional flaws that lead to socioeconomic and administrative problems.

The Land Contract Law for Rural Areas (Law of the People's Republic of China on Land Contract in Rural Areas, RLCL) increased tenure security for rural people. The law demands in § 21 (NPC 2002) that there should be a contract between the parties to land tenure.⁹ Two documents should record farmers' land rights and provide farmers with some measure of protection: a contract and a land rights certificate. Still, many households and individuals do not possess the required documents. According to the Summary of 17-Province Survey Findings in 2011, only 36.7% had both documents (contract and land rights certificate) as required by law and policy. However, only 20.9% of the issued contracts and 40.3% of issued certificates contain all the legally required information. Women's names are not generally listed on land documents (Zimmermann 2012, 1).

During the past decades, changes in Chinese land tenure rights and practices have given incentives for rural developments, including farmers' incomes, and living standards (Ding 2003, 109–120; Zhu and Prosterman 2007; ACWF 2014; 2017). As Shenggen Fan, Linxiu Zhang, and Xiaobo Zhang (2004, 400) state, the well-being of many rural landowners has improved by various indicators and factors such as human capital. Furthermore, those improvements have promoted the entire Chinese economy (Li 2014, 936–937). However, this positive progress does not necessarily apply to women. As Carol Woodhams, Ben Lupton, and Huiping Xian (2009, 2084–2109) point out, the status of women in China is far from equal to men.¹⁰ Ellen Rudd (2007, 689–710), Yueping Song, and Xiao-Yuan Dong (2017, 1471–1485) concur with Woodhams et al. and argue that the situation for women is even more complicated in rural or peri-urban areas.

The ACWF feels that in the past ten years, China's continuous acceleration of urban construction has led into a massive wave of expropriations. The ACWF also emphasizes the fact that rural women are more vulnerable in expropriation situations:

Especially for rural women, it has been difficult, and the system discriminates women. (interview with the ACWF)

⁹ The party giving the contract may be, for example, a village collective.

¹⁰ See also Nancy Riley (1997), Teemu Ruskola (1994), Alicia Leung (2003), and Ellen Rudd (2007).

5. *Hukou*, land tenure and rural women

The issue of women losing rights to land and property during marriage, divorce, and widowhood has long been regarded as a major obstacle to achieving gender equality in rural China (Liaw 2008, 237). In all of the interviews, this issue was raised on numerous occasions. It seemed that the ACWF is quite concerned about the situation. Likewise, the cases provided the same information; when women were most (economically and socially) vulnerable the system failed them, and rural women were left with no income from the land.¹¹ The biggest problem with *hukou* location change is related to land management and the transfer of control. According to Jun Xiang (2015, 231–253), this problem particularly affects rural women, who usually move to a new village after marriage. In addition to this, widows are at risk of becoming landless, as a result of which they sink into poverty.

When the first version of the RLCL debuted in 2002, one thing was clear; the message of the ACWF had not fallen on deaf ears. Articles 6, 30, and 54 in the law vowed to uphold women's rights to use and to manage land under contract. Also, the law banned rural collective economic organizations – which were the legally designated owners of farmland, comprising villages and village groups – from revoking their female members' access to land upon marriage, divorce, or widowhood. In other words, so long as their families hold valid land contracts with rural collectives, women's land rights should not be compromised by changes in marital status. What the 2002 RLCL omitted to mention, though, were the criteria necessary to determine the membership of rural collectives. In the absence of criteria defined by state laws, rural collectives remained free to decide who could or could not enjoy membership, a question at the heart of the distribution of income and benefits based on land use. The law's silence on this matter soon proved to be highly problematic, leaving millions of women with little certainty about their standing as members of a particular community (Li 2020, 33–65).

Changing the location of *hukou* involves both bureaucracy and discrimination. In a case provided by the interviewees, the amount of bureaucracy was overwhelming and the outcome uncertain.

First, an announcement of moving out of the area is made to the authorities of the original area. After the authorities provide a certificate and approve the announcement, the certificate is delivered to the *hukou* officials who cancel the *hukou* of that area. After that, a *hukou* application to the *hukou* authorities of the new area can be made. It is not uncommon that the *hukou* is rejected. (interview with the ACWF)

¹¹ For rural women, land is their only asset and economic provider.

Liu Yansui, Fang Fang, and Li Yuheng (2014, 6–12) found in their research that when a man moves to a new area, he is allocated his own small plot of land fairly soon after the move because he no longer has land in his old place of residence. For women, the situation is different, as the case provided by the ACWF showed. Based on that, it became clear that, according to the interpretation of the village committees, women do not have to change their location because they have land in the old location and therefore do not have to be granted any compensation, let alone land. Ray H. Liaw (2008, 237) states that the problem is that the original village interprets the matter as meaning that the woman is no longer entitled to use and benefit from her land because she has moved out of the area. However, the RLCL clearly states in § 30 that: “During the term of contract, a woman gets married and undertakes no contract for land in the place of her new residence, the party giving out the contract may not take back her originally contracted land.”

The non-transfer of new land to women is also often justified by the authorities with the fact that the land has been allocated under section 14 of the LAL for 30 years, although the same section allows for the division of land if a two-thirds majority supports it. In reality, the two-thirds of the decision-makers are men, making the decision-making process very gendered.

Village committees are decision makers. And there are mostly men in the committees. Women are not represented in the committees. (interview with the ACWF)

Men in the village committees ignore women, there are not enough women to look after their rights in village politics. (interview with the ACWF)

The interviews revealed that decision making processes are gendered not only at the village level but throughout Chinese society.

As a consequence, no new land divisions are carried out. It seems that the impact of society and public opinion on the functioning of village committees is greater than that of official legislation, as Lawrence Rosen (2017, 231) suggests. Michelle Zimbalist Rosaldo, Louise Lamphere, and Joan Bamberger (1974, 352) say that village committees implement the model that society expects of them. This is the case in today's China; the village committees are constantly aware of the expectations set for them (Xu and Fuller 2018, 38–55). However, these gendered practices seem to be the mode in which Chinese society operates as a whole. This frustrates the ACWF since they are not part of the decision-making bodies but only provide outside help to women.

Actually, men rule in China, but we are used to it, it's okay to us. We try to change it, but it is a slow change. (interview with the ACWF)

Even though both men and women face difficulties in rural areas due to the *hukou* system and its clashes with land rights, women are more vulnerable and so more at risk of facing poverty and abuse.

Since laws and regulations are considered equal and neutral, it is considered that they eliminate any potential threats of inequality. Thus, village committees and other authorities defend their own decisions with neutrality (Pilcher and Whelehan 2004, 201). These are not just men, but all those in power who truly believe they are acting neutrally:

A law is neutral, but it is thought that neutrality means men. If women are not mentioned specifically, then, women are not taken into account. Simple as that. (interview with the Professor of human rights)

This dilemma is also familiar in Nordic feminism, where attention has been drawn to the fact that formally gender-neutral legislation can mask and even prop up gender-segregated practices and ways of thinking (Lykke 2010, 242). Such gender-neutrality may be called gender-blindness. It does not only mean that gender is not recognized but it usually means that ignoring gender serves the interests of decision-makers and those in power positions.

In addition, the local-level Chinese officials are left with little guidance or no guidance at all. That creates a challenge; officials at the lower levels, including village councils, avoid interference or simply forbid everything in fear of doing something wrong.

There is no interpretation guidance. [...] [O]fficials don't know how to interpret the law... they forbid everything so that they don't do anything wrong. (interview with the Professor of human rights)

However, problems in implementing decisions or legislation are part of the overall system of Chinese policy-making (Shi, Markoczy, and Stan 2014, 57–75). Furthermore, officials making decisions at the national level do not understand life in rural areas. It can also be argued that since legislators at the national level do not understand life in rural areas, the areas do not receive the support they need.

Most of the national legislators live in big cities. They don't know what is going on in rural areas. (interview with the Professor of human rights)

6. Discussion and conclusions

Since the *hukou* system is a key institution in defining an individual's socio-economic status and opportunities in China, it not only impacts women's bargaining power but also their social security, economic well-being, and independence.

It is quite clear that land tenure policies play a part in affecting the household registration system.

Between 1980 and the mid-1990s, gender bias was explicit in the implementation of land tenure policies and population control, especially in rural China. Since that time, explicit gender bias has been reduced, reflecting China's modernization goals. However, the policies are still not gender-neutral in their implementation. Women remain more likely to become "landless" after changing their status in accordance with the *hukou*. The lack of women's land use rights recognition deprives them of their chances of receiving equal treatment in rural China.

The role of social institutions, such as the *hukou* system, in discrimination continues to be the subject of scientific debate. Kuang and Liu (2012, 46–93) indicate that rural *hukou* holders are in many ways in a poorer situation than urban *hukou* holders. But, then again, as Litao Zhao (2017, 165) argues, rural people are reluctant to give up their *hukou* because keeping the rural *hukou* would guarantee their rights to land and thus secure their income. Chen Chuanbo and Cindy Fan (2016, 10, 26) noticed that the access and benefits tied to the rural *hukou*, such as farming and housing land, compensation for land requisition, and, nowadays, abdicated birth control, are considered increasingly valuable. Therefore, many migrants opt to straddle and circulate between the city and countryside rather than giving up their rural *hukou*. However, according to Farsana Afridi, Sherry Li, and Yufei Ren (2015), the living standards and income of rural migrants living in urban areas with the rural *hukou* are far lower than those with urban *hukou*, proving that income from the land is not sufficient (Perry and Selden 2010, 324). In addition, Yang Song (2014, 200–212) states that workers with different *hukou* face different costs of living in cities and have different access to government-provided public services and welfare programs in the urban areas. Migrants with rural and non-local *hukou* working in big Chinese cities have little or no access to welfare programs provided by local city governments.

It is difficult to know why migrants keep their rural *hukou* when they are working in the cities. It is generally difficult to obtain an urban *hukou*, but this is not necessarily the only reason. It is possible that female migrants feel that they must keep the rural *hukou* to support their family in rural area, possibly for reasons related to childcare, which is often the responsibility of grandparents. This is obviously an area where more research is needed.

Even though both men and women face difficulties in rural areas due to the *hukou* system and its clashes with land tenure rights, women are more vulnerable and so more at risk of facing poverty and abuse. Legislation concerning the *hukou* and land rights is gender-neutral, which causes genuine problems. The implementation of the legislation is not neutral, but gender-blind implementation

causes and indeed justifies unequal treatment. In addition, policies and legislation reinforce and strengthen the traditional gender bias that is present in China.

Furthermore, the unequal insurance and social benefit system causes harm to rural women. Their livelihood and economic well-being are bound to the piece of land in their possession. If that piece of land is taken away and/or denied, there is no proper safety net and rural women face an uncertain economic and social future. China has joined the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which includes a specific article (§ 14) dedicated on the situation and rights of rural women and their right to access, use, and control land (UN GA 1979). Cultural and social factors and a lack of knowledge prevent rural women from obtaining secure rights to land. It is crucial to ensure that legislation and land reform policies are gender-responsive and consider rural women's historically disadvantaged socio-economic position compared to rural men. Furthermore, there is reason to create and maintain an environment that encourages rural women's increased participation in (political) decision-making, such as in village committees.

Social discrimination and exclusion brought by the *hukou* system has become a major obstacle for China in its aims to become a modern nation and global leader. The imbalanced approach to economic growth by sacrificing the interests of the peasantry undermines the stability of economic relationships and economic growth. Recent peasant and migrant labor protests are symptoms of insecurity and may threaten China's political stability and economic sustainability in the long run (Chan 2019, 59–79). China should accelerate *hukou* reforms and dismantle this discriminatory system within a reasonable period. As Charlotte Goodburn (2014, 6) proposes:

Real *hukou* reform would require fundamental changes to the provision of public services, and the funding to support them, as well as an overhaul of China's land rights.

However, the *hukou* system and its reforms are incredibly complex, largely due to its connection to Chinese governance and the linking of one's *hukou* status to social services and local finances. It is important that the *hukou* system and its problems are researched and written about, for it is a comprehensive system that affects all aspects of life in China.

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